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OFFICE OF PETITIONS

In re Application of
Jiandong Hunag et al.
Application No. 09/513,010
Filed: February 25, 2000
Attorney Docket Number: H16-26156 US
Title: MULTIPLE NETWORK FAULT
TOLERANCE VIA REDUNDANT
NETWORK CONTROL

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed December 15, 2005, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned due to the January 14, 2005 decision of the Board for Patent Appeals and Interferences which upheld the Examiner's rejections. Accordingly, the above-identified application became abandoned on March 15, 2005, the expiration of the period for seeking judicial review of this decision². A notice of abandonment was mailed on April 8, 2005.

A petition under 37 C.F.R. §1.137(a) was filed on July 5, 2005, along with a Request for Continued Examination (RCE), the appropriate fee, and a preliminary amendment. The petition was dismissed via the mailing of a decision on October 11, 2005 for failure to establish that the

¹ A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

² See MPEP § 1216.

entire period of delay was unavoidable, and for failure to submit a terminal disclaimer, pursuant to MPEP §711.03(c)II(G).

Along with the present petition, Petitioner has submitted the petition fee, the proper statement of unintentional delay, a terminal disclaimer, and the fee associated with the filing of the same.

Petitioner has met requirements (1) - (3) set forth in 37 C.F.R. §1.137(b).

Regarding the fourth requirement, the terminal disclaimer which Petitioner has supplied with this petition cannot be accepted, as it has not been completely executed, in that Petitioner has left two fields blank – the field which indicates the identity of the owner of this patent, and the field which indicates the percentage of his interest.

For these reasons, the petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.137(b)," and should include an acceptable submission. This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail³, hand-delivery⁴, or facsimile⁵.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at <http://www.uspto.gov/web/forms/sb0122.pdf>.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay⁶. In the event that such an

³ Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

⁴ Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

⁵ 571-273-8300 - please note this is a central facsimile number.

⁶ See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR §1.137(b) was intentional, petitioner must notify the Office.



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Office of Petitions
United States Patent and Trademark Office

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